

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN**

**DIANE BABCOCK,**

**Plaintiff,**

**v.**

**WELLS FARGO BANK,  
NATIONAL ASSOCIATION and  
EQUIFAX INFORMATION  
SERVICES, LLC,**

**Defendants.**

**Case No.**

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**DEFENDANT WELLS FARGO BANK N.A.'S NOTICE OF REMOVAL**

TO: THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN

Pursuant to 28 U.S.C. § 1331, 1441 and 1446, Defendant Wells Fargo Bank, N.A. (“Wells Fargo”), by counsel, hereby removes this action from the 18<sup>th</sup> Circuit Court in the State of Michigan, to the United States District Court for the Eastern District of Michigan. Removal is proper because this Court has subject matter jurisdiction over this action under federal question jurisdiction pursuant to 28 U.S.C. § 1331. Accordingly, Defendant removes this action and, in support of their Notice of Removal, states the following:

## I. BACKGROUND

1. Plaintiff Diane Babcock (“Plaintiff”) commenced the State Court Action against Wells Fargo on August 4, 2023 by filing a Complaint in the 18<sup>th</sup> Court for Bay County, State of Michigan, Case No. 23-3594-CZ (the “Complaint”). Pursuant to 28 U.S.C. § 1446(a), a copy of all process pleadings, and orders served on Wells Fargo in the State Court Action are attached hereto as Exhibit A.

2. On September 28, 2023, Wells Fargo was served with a copy of the Complaint via process server.

3. This Notice of Removal is being filed within thirty days of service of the Complaint on Wells Fargo. This Notice of Removal is therefore timely under 28 U.S.C. § 1446(b).

4. This Notice of Removal is being filed within one (1) year of the date of commencement of the action for removal purposes.

5. In the Complaint, Plaintiff alleges violations of the Fair Credit Reporting Act, (“FCRA”), 15 U.S.C. § 1681 *et seq.*

6. Wells Fargo denies the allegations in the Complaint, denies that Plaintiff has stated a claim for which relief may be granted, and denies that Plaintiff has been damaged in any manner. Nevertheless, assuming for jurisdictional purposes only that Plaintiff’s claims are valid, she could have originally filed her Complaint in this Court under federal question jurisdiction because resolution of

Plaintiff's claims will require determination of significant disputed issues under federal law.

## **II. FEDERAL QUESTION JURISDICTION**

7. This Court has original jurisdiction over Plaintiff's FCRA claims pursuant to 28 U.S.C. § 1331, which states that federal question jurisdiction is appropriately exercised over "all civil actions arising under the Constitution, laws, or treaties of the United States."

8. Removal of this action is proper under 28 U.S.C. § 1441(a), which provides, in relevant part, that "any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending."

9. Federal question jurisdiction exists over this action because the allegations Plaintiff asserts in the Summons and Complaint involve questions that will require resolution of significant, disputed issues arising under federal law. This case qualifies for federal question jurisdiction and is removable because Plaintiff's Complaint alleges claims under, and requires a ruling on, the FCRA.

10. Pursuant to 28 U.S.C. § 1441(b), removal is proper irrespective of the citizenship or residences of the parties.

### **III. VENUE**

11. Venue is proper in this Court because this district encompass the 18<sup>th</sup> Circuit Court for Bay County, Michigan, the forum from which the case has been removed. *See* 28 U.S.C. § 1441.

### **IV. NOTICE**

12. Concurrent with the filing of this Notice, Wells Fargo will file a Notice of Filing of Notice of Removal with the Clerk of the 18<sup>th</sup> Circuit Court for Bay County, Michigan and will attach a copy of this Notice of Removal thereto. A copy of the Notice of Filing of Notice of Removal, without Exhibit 1, is attached hereto as **Exhibit B**.

13. Upon information and belief, the contents of **Exhibit A** and **Exhibit B** constitute the entire file of the action pending in the state court as required pursuant to 28 U.S.C. § 1446(a).

14. Wells Fargo has notified co-defendant Equifax Information Services, LLC (“Equifax”) of its intent to remove this action and has obtained the consent of Equifax to removal in compliance with 28 U.S.C. § 1446(b)(2)(A). A copy of Equifax’s Consent to Removal is attached hereto as **Exhibit C**.

15. Wells Fargo reserves the right to amend this Notice of Removal.

16. If any questions arise as to the propriety of the removal of this action, Defendants request the opportunity to present a brief and argument in support of their position that this case is removable.

WHEREFORE, having met all the requirements for removal under 28 U.S.C. §§ 1441 and 1446, including all the jurisdictional requirements of 28 U.S.C. § 1331, Defendant Wells Fargo Bank, N.A. hereby removes this action from the 18<sup>th</sup> Circuit Court for Bay County, Michigan to the United States District Court for the Eastern District of Michigan and seek whatever further relief this Court deems equitable and just.

Dated: October 25, 2023

Respectfully Submitted,

**WELLS FARGO BANK, N.A.**

*/s/ Mark D. Kundmueller*

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*Attorneys for Defendant  
Wells Fargo Bank, N.A.*

**CERTIFICATE OF SERVICE**

I hereby certify that on October 25, 2023, I caused a copy of the foregoing *Defendant Wells Fargo Bank, N.A.'s Notice of Removal* to be electronically filed with the U.S. District Court, Eastern District of Michigan, and notice will be sent by operation of the Court's electronic filing system to all ECF participants.

I further certify that a courtesy copy will be sent via Federal Express to the following:

**Counsel for Plaintiff**

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/s/ Mark D. Kundmueller

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